

AF/3732



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PTO/SB/21 (08-00)  
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)		Application Number	09/900,503
		Filing Date	July 6, 2001
		First Named Inventor	HU, LAWRENCE W.
		Group Art Unit	3732
		Examiner Name	SMITH, JEFFREY A.
Total Number of Pages in This Submission	23	Attorney Docket Number	GUID-012CON
<b>ENCLOSURES (check all that apply)</b>			
<input type="checkbox"/> Fee Transmittal Form (In duplicate) <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences	
<input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)	
<input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter	
<input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Request for entry of Amendment filed May 14, 2003 (1 pg) Copy of Amendment and PTO forms 1449 filed May 14, 2003 (21 pgs.) postcard	
Remarks			

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<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>	
Firm or Individual Name	ALAN W. CANNON, Reg. No. 34,977
Signature	
Date	September 15, 2003

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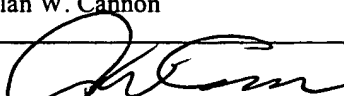
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Typed or Printed Name	Alan W. Cannon		
Signature		Date	9/15/03

<b>REQUEST FOR ENTRY AND CONSIDERATION OF AMENDMENT FILED MAY 14, 2003</b>	Application No.	09/900,503
	Confirmation No.	5237
	Filing Date	July 6, 2001
	First Named Inventor	Hu, Lawrence W.
	Examiner.	Smith, Jeffrey
	Group Art Unit	3732
	Attorney Docket No.	GUID-012CON

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Sir:

Applicants hereby request that the Amendment filed under 37 CFR 1.116 on May 14, 2003 be entered and considered. Applicants' representative telephoned the Examiner, the Examiner's SPE and the group receptionist to request the status of this case. The Examiner's SPE indicated that the Amendment filed May 14, 2003 has not yet been entered. Applicants are submitting a copy of the amendment as filed on May 14, 2003, including a copy of the postcard date-stamped by the U.S. Patent and Trademark Office, as proof of the filing of the amendment.

Applicants respectfully submit that no fees are due at this time, since the Amendment under 37 CFR 1.116 was timely filed within 2 months of the date of the final Office Action. However, the Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time and Notice of Appeal to avoid abandonment of the present case, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-012CON.

Respectfully submitted,  
LAW OFFICE OF ALAN W. CANNON

Date: September 15, 2003

By:   
Alan W. Cannon  
Registration No. 34,977

LAW OFFICE OF ALAN W. CANNON  
834 South Wolfe Road  
Sunnyvale, CA 94086  
Telephone: (408) 736-3554  
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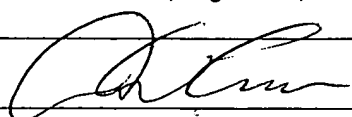


PTO/SB/21 (08-00)

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Remarks			
<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>			
Firm or Individual Name	ALAN W. CANNON, Reg. No. 34,977		
Signature			
Date	May 14, 2003		

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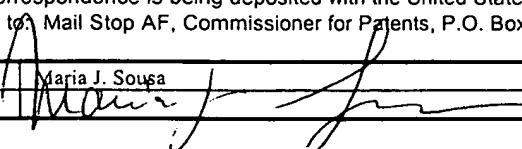
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Typed or printed name Maria J. Sousa

Signature



Date May 14, 2003

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<b>FEE TRANSMITTAL for FY 2003</b>		<b>Complete if Known</b>																																								
<b>Patent fees are subject to annual revision.</b>		Application Number	09/900,503																																							
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<b>SUBMITTED BY</b>		<b>Complete (if applicable)</b>	
Name (Print/Type)	Alan W. Cannon	Registration No. (Attorney/Agent)	34,977
Signature		Telephone	(408) 736-3554
		Date	05/14/2003

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Typed or Printed Name

Maria J. Sousa

Signature

Date

May 14, 2003

**AMENDMENT UNDER  
37 C.F.R. §1.116**

Address to:  
Box AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Attorney Docket  
Confirmation No.

GUID012CON  
5237

First Named Inventor

Lawrence W. Hu, *et al.*

Application Number

09/900,503

Filing Date

July 6, 2001

Group Art Unit

3732

Examiner Name

Smith, Jeffrey A.

Title

SURGICAL RETRACTOR  
PLATFORM BLADE  
APPARATUS

Sir:

This amendment is responsive to the Final Office Action dated March 14, 2003 for which a three-month period for response was given making this response due on or before June 14, 2003. In view of the amendments to the claims and the remarks put forth below, reconsideration and allowance are respectfully requested. Applicants have attached to this amendment a "Version with Markings to Show Changes Made" wherein all of the amendments requested here are put forth with underlining and bracketing.

Applicants submit that the amendments set forth below raise no new issues. Rather, the amendments place the claims in form for allowance or in better form for appeal. Entry of these amendments is thus respectfully requested.

IN THE CLAIMS

Please amend claim 8 as follows:

AMENDMENTS  
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TECHNOLOGY CENTER R3700

8. (Twice Amended) A surgical retractor blade, said retractor blade comprising a polymeric body having a first end adapted to attach to a separate, complete driving mechanism, a second end, a channel adapted to engage one side of an incision in a patient, and a rail extending along at least a portion of said polymeric body.

Please amend claim 11 as follows:

11. (Three Times Amended) A surgical retractor blade, said retractor blade comprising a body having a first end adapted to attach to a separate, complete driving mechanism, a second end, a channel adapted to engage one side of an incision in a patient, a rail extending along at least a portion of said body, and a plurality of open slots for receiving a suture therein, wherein said open slots have an internal wall and a suture locking member having a fixed end and a free end, said free end engaging said internal wall so as to clamp a suture placed between said free end and said internal wall.

Please enter the following new claims:

26 (New) A surgical retractor blade for attaching to a drive mechanism, said retractor blade comprising a body having a first end, a second end, a channel adapted to engage one side of an incision in a patient, a rail extending along at least a portion of said body, and a plurality of open slots for receiving a suture therein, wherein said open slots have an internal wall and a suture locking member having a fixed end and a free end, said free end engaging said internal wall so as to clamp a suture placed between said free end and said internal wall, wherein said suture locking member is substantially rigid and pivots about said fixed end.

27. (New) The surgical retractor of claim 26, further comprising a spring member biased against said suture locking member to forcibly urge said free end towards said internal wall.

**REMARKS UNDER 37 CFR § 1.116**

**Formal Matters**

Claims 1-6, 8-15 and 17-27 are pending after entry of the amendments set forth herein.

Claims 1-6, 8-15 and 17-25 were examined. Claims 8-11 and 21-23 were rejected. Claims 1-6, 14-20, 24 and 25 were allowed. Claims 12 and 13 were objected to.

Please replace claims 8 and 11 with the clean version provided above, and enter new claims 26 and 27 as provided above.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE.**"

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

**The Office Action**

Initially, Applicants wish to extend their appreciation to the Examiner for the indicated allowance of claims 1-6, 14-20, 24 and 25, as well as the indicated allowable subject matter in claims 12 and 13.

Claims 8-11 were rejected under 35 U.S.C. Section 102(e) as being anticipated by Hancock (U.S. Patent No. 6,331,157 B2). The Examiner indicated that the recitations "wherein said first end is adapted for attaching to a separated, complete drive mechanism" did not patentably distinguish the claims from the structure disclosed by Hancock because the "wherein" clause was not considered to further distinguish the structure recited.

In response thereto, Applicants have amended each of claims 8 and 11 to delete the discussed "wherein" clause. In its place, in each instance, the claims have been amended to further define recited first end as "adapted to attach to a separate, complete driving mechanism". It is respectfully submitted that this language structurally distinguishes the present invention as recited by claims 8 and 11 (and claims depending therefrom) over Hancock, since Hancock's blades are always attached to the driver. Further, it is respectfully submitted that it has been held that In a claim that was directed to a kit of component parts capable of being assembled, the Court held that limitations such as "members adapted

to be positioned" and "portions . . . being resiliently dilatable whereby said housing may be slidably positioned" serve to precisely define present structural attributes of interrelated component parts of the claimed assembly. *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976). (see MPEP Section 2173.05(g)).

In view of the above amendment of claims 8 and 11, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 8-11 under 35 U.S.C. Section 102(e) as being anticipated by Hancock (U.S. Patent No. 6,331,157 B2), as being no longer appropriate. It is respectfully submitted that these amendments do not raise a new issue, since they address the same previously addressed issue of structurally limiting the presently claimed invention to blades that may be attached to a separate, complete drive mechanism.

Claims 21-23 were rejected under 35 U.S.C. Section 103 (a) as being unpatentable over Hancock in view of Brief (U.S. Patent No. 4,747,395). It is respectfully submitted that these claims are allowable over the recited combination of references for at least the same reasons that claims 8 and 11 patentably define over Hancock, as discussed above, since Brief does nothing to overcome the deficiencies of Hancock in meeting the recitations of claims 8 and 11, and since each of claims 21-23 depends from one of claims 8 and 11.

Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 21-23 under 35 U.S.C. Section 103 (a) as being unpatentable over Hancock in view of Brief (U.S. Patent No. 4,747,395), as being no longer appropriate.

With regard to newly submitted claims 26 and 27, it is respectfully submitted that these claims are clearly allowable in view of the Examiner's indication, in the Office Action dated June 19, 2002, that claims 12 and 13 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. New claims 26 and 27 correspond to claims 12 and 13 in such form.

#### **PTO Forms 1449**

Upon review of the file for this application, Applicants have discovered that not all of the documents that were submitted in the parent application (Application Serial No. 09/305,811, now U.S. Patent No. 6,283,912) have been submitted in the instant application. Accordingly, Applicants are submitting herewith PTO Forms 1449 listing the remainder of the documents which have not been submitted, but which were considered and cited during the prosecution of the parent application. Copies of the documents are not included, as having been already previously submitted in the parent



application. Applicants would appreciate the Examiner initialing and returning an initialed copy of the enclosed PTO Forms 1449 to indicate consideration of the same.

**Conclusion**

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-012CON.

Respectfully submitted,  
LAW OFFICE OF ALAN W. CANNON

Date:

May 14, 2003

By:



Alan W. Cannon  
Registration No. 34,977

LAW OFFICE OF ALAN W. CANNON  
834 South Wolfe Road  
Sunnyvale, CA 94086  
Telephone: (408) 736-3554  
Facsimile: (408) 736-3564

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS**

Claim 8 was amended above as follows:

8. (Twice Amended) A surgical retractor blade, said retractor blade comprising a polymeric body having a first end adapted to attach to a separate, complete driving mechanism, a second end, a channel adapted to engage one side of an incision in a patient, and a rail extending along at least a portion of said polymeric body[, wherein said first end is adapted for attaching to a separate, complete drive mechanism].

Claim 11 was amended above as follows:

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 10

**Complete if Known**

Application Number	09/900,503
Filing Date	July 6, 2001
First Named Inventor	Hu et al.
Group Art Unit	3732
Examiner Name	Jeffery A. Smith
Attorney Docket Number	GUID-012CON

**U.S. PATENT DOCUMENTS**

Examiner Initials <sup>1</sup>	Cite No. <sup>1</sup>	U.S. Patent Documents		Date of Publication of Cited Document MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, columns, lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code <sup>2</sup> (if known)			
	A1	452,131		May, 1891	Haughwout	
	A2	810,675		Jan., 1906	Richter	
	A3	2,296,793		Sep., 1942	Kirschbaum	
	A4	2,590,527		Mar., 1952	Fluck	
	A5	2,693,795		Nov., 1954	Grieshaber.	
	A6	2,863,444		Dec., 1958	Winsten.	
	A7	3,392,722		Jul., 1968	Jorgensen.	
	A8	3,683,926		Aug., 1972	Suzuki.	
	A9	3,720,433		Mar., 1973	Rosfelder.	
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# INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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## Complete if Known

Application Number	09/900,503
Filing Date	July 6, 2001
First Named Inventor	Hu et al.
Group Art Unit	3732
Examiner Name	Jeffery A. Smith
Attorney Docket Number	GUID-012CON

Sheet 2 of 10

A28	4,726,356	Feb., 1988	Santilli et al.
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		Application Number	09/900,503
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)		Filing Date	July 6, 2001
		First Named Inventor	Hu et al.
		Group Art Unit	3732
		Examiner Name	Jeffery A. Smith
		Attorney Docket Number	GUID-012CON
Sheet	3	of	10

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Sheet

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Filing Date	July 6, 2001
First Named Inventor	Hu et al.
Group Art Unit	3732
Examiner Name	Jeffery A. Smith
Attorney Docket Number	GUID-012CON

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		Application Number	09/900,503		
		Filing Date	July 6, 2001		
		First Named Inventor	Hu et al.		
		Group Art Unit	3732		
		Examiner Name	Jeffery A. Smith		
Sheet	5	of	10	Attorney Docket Number	GUID-012CON

FOREIGN PATENT DOCUMENTS						
Examiner Initials <sup>1</sup>	Cite No. <sup>1</sup>	Foreign Patent Documents			Date of Publication of Cited Document MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents
		Office <sup>3</sup>	Number <sup>4</sup> Code <sup>5</sup>	Kind		
		<i>(if known)</i>				
	B1		WO 87/04081		Jul., 1987	WO.
	B2		0 293 760 A1		Dec., 1988	DE
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		Application Number	09/900,503
		Filing Date	July 6, 2001
		First Named Inventor	Hu et al.
		Group Art Unit	3732
		Examiner Name	Jeffery A. Smith
Sheet 6 of 10	Attorney Docket Number	GUID-012CON	

B21	WO 00/42921	Jul., 2000	WO.		
B22	WO 00/42935	Jul., 2000	WO.		
B23	WO 00/42936	Jul., 2000	WO.		
B24	WO 00/42937	Jul., 2000	WO.		

OTHER PRIOR ART—NON PATENT LITERATURE DOCUMENTS		
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
	C1	Ancalmo, N. and J. L. Ochsner: "A Modified Sternal Retractor," Ann. Thorac. Surg. 21 (1976) 174.
	C2	Angelini, G.D., M.D. et al., "A Fiber-Optic Retractor for Harvesting the Internal Mammary Artery," Ann. Thorac. Surg. (1990;50:314-5).
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	C7	Archer, R., DO et al., "Coronary Artery Revascularization Without Cardiopulmonary Bypass," Texas Heart Institute Journal, vol. 11, No. 1, Mar. 1984, pp. 52-57.
	C8	Arom, K.V., et al., "Mini-Sternotomy for Coronary Artery Bypass Grafting," The Annals of Thoracic Surgery 1996;61:1271-2.
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	C11	Bedellino, M. M. et al., "The Cardiac Rag -Simple Exposure of the Heart," Texas Heart Institute Journal, vol. 15, No. 2, 1988, 134-35.

Examiner Signature	Date Considered
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		Application Number	09/900,503
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)		Filing Date	July 6, 2001
		First Named Inventor	Hu et al.
		Group Art Unit	3732
		Examiner Name	Jeffery A. Smith
		Attorney Docket Number	GUID-012CON
Sheet	7	of	10

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C14	Bonatti, J. et al., "Single Coronary Artery Bypass Grafting -- A Comparison Between Minimally Invasive 'Off Pump' Techniques and Conventional Procedures," European Journal of Cardiac-Thoracic Surgery, 14 (Supp.1) (1998) S7-S12.
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C18	Buffolo, E. et al., "Direct Myocardial Revascularization Without Cardiopulmonary Bypass," Thorac. Cardiovasc. Surgeon, 33 (1985) pp. 26-29.
C19	Bugge, M., "A New Internal Mammary Artery Retractor," Thorac. Cardiovasc Surgeon 38, pp. 316-317 (1990).
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C27	Fanning, W. J. et al., "Reoperative Coronary Artery Bypass Grafting Without Cardiopulmonary Bypass," The Annals of Thoracic Surgery, vol. 55, No. 2, Feb. 1993, pp. 486-489.
C28	Favaloro, R. G., et al. "Direct Myocardial Revascularization by Saphenous Vein Graft," The Annals of Thoracic Surgery, vol. 10, No. 2, pp. 97-111, Aug. 1970.

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# **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

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Sheet 8 of 10

## **Complete if Known**

Application Number	09/900,503
Filing Date	July 6, 2001
First Named Inventor	Hu et al.
Group Art Unit	3732
Examiner Name	Jeffery A. Smith
Attorney Docket Number	GUID-012CON

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C29	Fonger, J. D. et al., "Enhanced Preservation of Acutely Ischemic Myocardium with Transseptal Left Ventricular Assist," The Annals of Thoracic Surgery, vol. 57, No. 3, Mar. 1994, pp. 570-575.
C30	Gacioch, G. M., MD, et al., "Cardiogenic Shock Complicating Acute Myocardial Infarction: The Use of Coronary Angioplasty and the Integration of the New Support Device into Patient Management," Journal of the American College of Cardiology, vol. 19, No. 3, Mar. 1, 1992, pp. 647-653.
C31	Green, GE., "Technique of Internal Mammary-Coronary Artery Anastomosis," The Journal of Cardiovascular Surgery, 78:455-59, 1979.
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STATEMENT BY APPLICANT**

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Sheet 9 of 10

**Complete if Known**

Application Number	09/900,503
Filing Date	July 6, 2001
First Named Inventor	Hu et al.
Group Art Unit	3732
Examiner Name	Jeffery A. Smith
Attorney Docket Number	GUID-012CON

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Considered

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Sheet 10 of 10

## Complete if Known

Application Number 09/900,503  
Filing Date July 6, 2001  
First Named Inventor Hu et al.  
Group Art Unit 3732  
Examiner Name Jeffery A. Smith  
Attorney Docket Number GUID-012CON

C65	Zumbro, G. L. et al., "A Prospective Evaluation of the Pulsatile Assist Device," The Annals of Thoracic Surgery, vol. 28, No. 2, Aug. 1979, pp. 269-273.
C66	60/117,333 Looney et al. (provisional) filed in Jan. 24, 1999.
C67	09/345,859 Looney et al. filed on Jul. 1, 1999.
C68	09/438,670 Parsons, et al. filed on Nov. 12, 1999.
C69	09/489,274 Brown et al. filed on Jan. 24, 2000.

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File No. GUID-012CON

Application No.: 09/900,503

Inventor(s): Lawrence W. Hu, et al.

Title: *Surgical Retractor Platform Blade Apparatus*

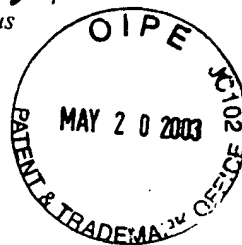
Date Mailed: May 14, 2003

Date Filed: ~~Even Date Herewith~~

*July 6, 2003*

**Enclosures:**

- ◆ Transmittal (1 pg.)
- ◆ Fee Transmittal (in duplicate) (2pgs.)
- ◆ Amendment under 37 CFR 1.116 (7 pages)
- ◆ PTO Forms 1449 (10 pages)



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